

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maia Armaleo	Team: Team # 3	CCRB Case #: 200612721	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/24/2006 12:45 AM	Location of Incident: 1354 E. L. Grant Highway	Precinct: 44	18 Mo. SOL 3/24/2008	EO SOL 3/24/2008	
Date/Time CV Reported Mon, 09/25/2006 2:25 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 09/25/2006 2:25 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Tiffany Dozier	07879	938398	044 PCT
2. SGT Osvaldo Nunez	03579	918086	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Gonzalez	27461	904055	044 PCT
2. POM Fabricio Fermin	15103	938472	044 PCT
3. POM Anibal Mercado	03505	904564	044 PCT
4. POM Mark Offenbacher	08623	939139	044 PCT
5. POM Joseph Rivera	11552	939321	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Tiffany Dozier	Discourtesy: PO Tiffany Dozier spoke rudely to § 87(2)(b)	
B.SGT Osvaldo Nunez	Force: Sgt. Osvaldo Nunez used physical force against § 87(2)(b)	
C.SGT Osvaldo Nunez	Discourtesy: Sgt. Osvaldo Nunez spoke obscenely to § 87(2)(b)	
D.SGT Osvaldo Nunez	Abuse: Sgt. Osvaldo Nunez threatened to arrest § 87(2)(b)	

## Synopsis

On September 25, 2006, § 87(2)(b) and § 87(2)(b) filed the following complaint in-person at the CCRB.

At approximately 12:10 a.m. on September 24, 2006, § 87(2)(b) who is handicapped and could not walk at the time, was in the front passenger seat of a car his cousin § 87(2)(b) had double-parked in front of a Jordan's Barbershop at 1354 E.L. Grant Highway in the Bronx while waiting for a parking space. There was a party in front of the barbershop and officers were clearing cars out of the area. PO Tiffany Dozier instructed § 87(2)(b) to move the car, which he did, but he returned immediately, and PO Dozier again approached the car, at which point § 87(2)(b) stated that they were about to park. PO Dozier then called § 87(2)(b) a "smartass" (Allegation A) and issued a double-parking summons. Sgt. Osvaldo Nunez approached during this time and became involved in the dispute with § 87(2)(b) § 87(2)(b) girlfriend, § 87(2)(b) who was standing on the sidewalk at the time, then asked Sgt. Nunez for his shield number upon § 87(2)(b) request, which Sgt. Nunez provided verbally along with his name. He then approached the car and pushed past § 87(2)(b) on the way, knocking her into the car, (Allegation B). He then stated to § 87(2)(b) "You're fucking with the wrong cop. Now you're going to jail," (Allegation C). § 87(2)(b) explained that he had a spinal cord injury and could not walk, and Sgt. Nunez handcuffed him and dragged him out of the car by his arms. § 87(2)(b) and § 87(2)(b) began protesting and requesting that the officers be careful with § 87(2)(b). Sgt. Nunez then lifted § 87(2)(b) by his arms and PO James Gonzalez and another officer helped carry § 87(2)(b) to a police van and place him inside. § 87(2)(b) complained that he was in pain and that he could not walk, and Sgt. Nunez stated, "I don't give a fuck if you can walk or not," (within Allegation C). § 87(2)(b) was then arrested by PO Mark Offenbacher, and he and § 87(2)(b) were taken to the 44<sup>th</sup> Precinct stationhouse. § 87(2)(b) followed them there, and while she was waiting for them inside, Sgt. Nunez stated to her that she had "caused all this trouble" and was "looking to get arrested," (Allegation D). § 87(2)(b) and § 87(2)(b) were each released with a summons for § 87(2)(b).

§ 87(2)(g)

This case was reassigned from Inv. Ernesto Shaw to Inv. Maia Armaleo on April 3, 2007.

## Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old Hispanic male, provided an official statement to Inv. Shaw at the CCRB on September 25, 2006 (Encl. 5a-c), and a follow-up telephone statement to the undersigned on May 1, 2007 (Encl. 6). § 87(2)(g)

At approximately 12:10 a.m. on September 24, 2006, § 87(2)(b) was in the front passenger seat of his cousin § 87(2)(b)'s car, which was double parked in front of a barbershop at 1354, E. L. Grant Highway in the Bronx. § 87(2)(b) who was driving, was waiting for a parking space. There was a party in front of the barbershop at the time. An officer, described as a white female with brown hair, and identified by the names on the summonses she issued as PO Tiffany Dozier, then approached and instructed § 87(2)(b) to move the car. There was a police van and five to six other officers nearby. § 87(2)(b) immediately pulled away, rounded the corner, and waited to take a space that another car was leaving. PO Dozier then returned to the car and stated, "What are you doing here? I told you to move." § 87(2)(b) explained to PO Dozier that they were about to park the car and that he was going to get a haircut. PO Dozier replied, "You want to be a smartass? You're going to get a ticket for double parking now." § 87(2)(b) then stated, "Do what the hell you want to do. Give me the ticket. I'm going to get my haircut." PO Dozier then walked toward an officer, described as a uniformed 5'5" Hispanic male of medium build and identified by his name and shield number as Sgt. Osvaldo Nunez, and stated, "He has an attitude, Sergeant." Sgt. Nunez approached and stated to § 87(2)(b) "You got an attitude? If you talk again I'm going to take you to jail. I don't care if you're crippled or if you're not crippled." He then instructed PO

Dozier to write a double-parking ticket, walked away, and yelled at bystanders to move. PO Dozier then wrote a double-parking ticket.

§ 87(2)(b) asked his girlfriend, § 87(2)(b) who was standing on the sidewalk, to get Sgt. Nunez's badge number. She did so, and Sgt. Nunez stated, "Oh, you want my badge number? You want to make a complaint." He then approached § 87(2)(b) and stated, "You're fucking with the wrong cop. Now you're going to jail." § 87(2)(b) has a spinal-cord injury and could not walk at the time, and he explained to Sgt. Nunez that he would not be able to go anywhere without his wheelchair. Sgt. Nunez stated, "I don't care. You're not going to need your wheelchair." He then handcuffed § 87(2)(b) and dragged him out of the car by his arms. § 87(2)(b) stated, "What are you doing? You're an animal. Why are you doing that to him? He's handicapped." Sgt. Nunez replied, "I don't care. You shut up or you're going to get arrested too. You're the one who's causing all this trouble, because you're the one who wants to take my badge number." § 87(2)(b) warned the officers several times to be careful with § 87(2)(b) because of his injury. More than ten people observed the incident. The crowd was angered by the way the officers were treating § 87(2)(b) and the officers began yelling, "Stay back." PO3, an unidentified 6'0", 150-lbs white male officer in his late twenties with black hair, and PO James Gonzalez, described as a 6'0", 200-lbs Italian-looking male in his forties with a big mustache and identified by both § 87(2)(b) and § 87(2)(b) in a photo array, then helped Sgt. Nunez carry § 87(2)(b) to the police van and throw him inside. Sgt. Nunez and PO Gonzalez took his arms, and PO3 took his legs. Upon further questioning, § 87(2)(b) stated that only Sgt. Nunez and PO3 did this. When asked during his phone statement how he was put in the van, § 87(2)(b) stated that he was thrown, but when asked how, he stated that he was pushed. § 87(2)(b) had a cast on his left arm and leg at the time and repeatedly stated to the officers, "I have pain." He also explained that he has a spinal cord injury and cannot walk. Sgt. Nunez stated, "I don't give a fuck if you can walk or not. You're going to jail." § 87(2)(b) never requested medical attention. Although he was in pain at the time, he did not believe the officers were injuring him.

§ 87(2)(b) was then transported to the 44<sup>th</sup> Precinct along with § 87(2)(b) and § 87(2)(b) another man who was arrested in front of the barbershop. Once at the precinct, an officer took § 87(2)(b) out of the police van and placed him in his wheelchair. Inside the precinct, Sgt. Nunez asked § 87(2)(b) where he lived, and when § 87(2)(b) answered, Sgt. Nunez stated, "I know where you hang out now. If I hear any bullshit complaint, I will make your life miserable." Sgt. Nunez then stated to § 87(2)(b) "You didn't see nothing, you didn't hear nothing." § 87(2)(b) was issued a summons for disorderly conduct by PO Dozier and released from the precinct. PO3 handed § 87(2)(b) a summons for disorderly conduct as well. They were not at the precinct for more than 45 minutes. In his phone statement, § 87(2)(b) said that when he and § 87(2)(b) returned to their car, they found that it had been searched. § 87(2)(b) did not see officers search the car in front of the barbershop.

On July 24, 2007, § 87(2)(b) viewed a photo array at the CCRB (Encl. 7) and identified PO James Gonzalez as one of the two officers who helped Sgt. Nunez carry him to the van. He stated that PO Gonzalez held his legs while Sgt. Nunez held his right arm and the other officer held his left arm. He also stated that PO Gonzalez handed him the § 87(2)(b) summons. § 87(2)(b) could not identify any other officers from the scene in the array.

§ 87(2)(b) a § 87(2)(b)-old Hispanic male, provided an official statement to Inv. Shaw on September 25, 2006 (Encl. 8a-c). It is summarized below.

At approximately 12:10 a.m. on September 24, 2006, § 87(2)(b) was waiting for a parking space in front of Jordan's Barbershop with his cousin § 87(2)(b) who was in the passenger's seat, when PO Dozier, a 5'8" blond, blue-eyed white female, and PO4, an unidentified 5'10" Hispanic male of with a goatee, approached the car. PO4 instructed § 87(2)(b) to move his car. Several cars were in the area, and a number of officers were ordering drivers to move. After driving away, § 87(2)(b) returned to the same area, where a car was now pulling out of a space. § 87(2)(b) double parked and waited for the space. PO Dozier then approached and stated, "You came back again? You're getting a ticket." § 87(2)(b) began to argue with PO Dozier, stating that he was disabled. PO Dozier then issued the summons and told Sgt. Nunez, a 6-foot male sergeant with a beard and glasses, that § 87(2)(b) and § 87(2)(b) were "giving her trouble." Sgt. Nunez approached the car and stated to § 87(2)(b) "You're giving her trouble. You're going under arrest." § 87(2)(b) wife then approached Sgt. Nunez and asked him for his badge number. Sgt. Nunez turned around and § 87(2)(b) wife recorded the number. Sgt. Nunez stated that if she did not go away, she would be

arrested. He then approached the car again and stated to § 87(2)(b) “You want to be smart? You’re fucking with the wrong cop.” Sgt. Nunez then pulled § 87(2)(b) halfway out of the car and repeatedly screamed at him, “Get out of the car.” § 87(2)(b) got out and stated, “Hey, slow down. My cousin is disabled. He has a spinal cord injury. Please calm down.” Sgt. Nunez then ordered § 87(2)(b) to get back in the car. An officer, described as a built white male officer of about 5’9” with blond hair and blue eyes, identified through the investigation as PO Mark Offenbacher, then slammed the door on § 87(2)(b) and stated, “You better calm down.” § 87(2)(b) again stated that § 87(2)(b) is disabled and requested that the officers be gentle with him. PO Offenbacher then handcuffed § 87(2)(b). Three officers – Sgt. Nunez, PO Gonzalez and PO5, an unidentified officer whom § 87(2)(b) did not describe – pulled § 87(2)(b) by his arms toward a police van about three cars away, letting his legs drag on the ground. They then threw him in the van. The officers then took § 87(2)(b) wheelchair out of the trunk and PO5 drove § 87(2)(b) to the precinct. He and § 87(2)(b) were ultimately released without being processed. PO5 handed § 87(2)(b) a summons for § 87(2)(b), but § 87(2)(b) did not see him write it. § 87(2)(b) was also issued a summons for § 87(2)(b). When § 87(2)(b) and § 87(2)(b) returned to the car, they found that it had been searched. “Drawers” were open and items had been thrown around.

No photo viewing was conducted with § 87(2)(b) because he moved to Florida and could not be reached.

§ 87(2)(b) a § 87(2)(b)-old Hispanic female, provided an official statement to Inv. Shaw at the CCRB on September 25, 2006 (Encl. 9a-c). It is summarized below.

At approximately 12:10 a.m. on September 24, 2006, in front of 1354 E.L. Grant Highway in the Bronx, § 87(2)(b) got out of her boyfriend § 87(2)(b) car and entered a nearby store to buy a bottle of water. When she came out of the store, she stood in front of the car. Officers then got out of a police van, stated, “Everybody, the party’s over,” and instructed everyone in the area to leave. § 87(2)(b) who was still in the car, stated to the officers that he and his cousin, § 87(2)(b) the driver of the car, were waiting to take a parking space that another car was about to leave. An officer stated, “No, you need to leave,” so § 87(2)(b) moved the car, turned around, came back, and was about to park in an open space when PO Dozier, a white female officer with honey-colored hair stated, “Didn’t I tell you to leave?” § 87(2)(b) then approached the car to get in, but the officers told her to go back to where she had been standing, and she complied. § 87(2)(b) showed PO Dozier his handicapped parking pass and PO Dozier stated, “I don’t give a fuck if you’re handicapped.” PO Dozier then issued § 87(2)(b) a ticket for double parking. Sgt. Nunez then approached the car, and § 87(2)(b) gave him an attitude. § 87(2)(b) stated to Sgt. Nunez that he had a friend who used to work in the 44<sup>th</sup> Precinct. Sgt. Nunez also had an attitude. § 87(2)(b) then beckoned § 87(2)(b) to the car and asked her to get Sgt. Nunez’s shield number. § 87(2)(b) then walked toward Sgt. Nunez, but he yelled at her to “Get away,” and “Go over there.” § 87(2)(b) replied that she wanted his name and shield number. Sgt. Nunez then turned, stated his name and shield number, and allowed her to look at his shield. § 87(2)(b) entered the information into her cell phone, returned to the car, and handed § 87(2)(b) the phone. Sgt. Nunez then approached the car, told § 87(2)(b) to move and shoved her out of the way. He then stated to § 87(2)(b) “That’s it. You want to fuck with me? You’re getting arrested.” PO Joseph Rivera, identified by § 87(2)(b) in a photo array, repeatedly told § 87(2)(b) to “stay away,” but she did not leave because she was concerned about her boyfriend. PO Fabricio Fermin, a Hispanic male officer who was “nice” and was also identified by § 87(2)(b) in a photo array, then stated to § 87(2)(b) that she should “take it easy” because she could get arrested. Sgt. Nunez, PO Offenbacher and PO Gonzalez pulled § 87(2)(b) from the car by his arms, dragging his legs, one of which was in a cast. Upon further questioning, § 87(2)(b) stated that PO Offenbacher did not help drag § 87(2)(b) – he was with § 87(2)(b) at the time – and that the third officer dragging § 87(2)(b) was PO6, an unidentified male with light skin. § 87(2)(b) exited the car as the officers were dragging § 87(2)(b) and repeatedly stated, “Don’t treat him like that. He has a cast.” § 87(2)(b) was then arrested by PO Offenbacher. Sgt. Nunez, PO Gonzalez and PO6 then pushed § 87(2)(b) inside the van, and § 87(2)(b) screamed in pain. The officers never touched his legs. The officers then took § 87(2)(b) to the 44<sup>th</sup> Precinct. They took his car separately. § 87(2)(b) s friend, § 87(2)(b) who was also on the scene, then drove § 87(2)(b) to the precinct. Inside the precinct, Sgt. Nunez stated to her that she was the one “causing all this trouble” and that she was “looking to get arrested.” An officer then told § 87(2)(b) to wait outside, which she did. § 87(2)(b) a man who works at a liquor store next to the scene of the incident, then exited the stationhouse, and § 87(2)(b) asked him what he was doing

there. § 87(2)(b) replied that he had been arrested for smoking marijuana while waiting for a cab at the scene of the incident. About 45 minutes after § 87(2)(b) exited the precinct, § 87(2)(b) and § 87(2)(b) were each released with a summons.

On July 24, 2007, § 87(2)(b) was shown photos of 20 officers (Encl. 10), only five of whom could have been present during the incident. § 87(2)(b) stated that PO Fermin, PO Rivera and PO Gonzalez were present; that three fillers were present; that PO Offenbacher may have been present; that nine fillers may have been present; that PO Mercado was not present, and that four fillers were not present. She explained that PO Fermin was very nice to her and did not do anything wrong and that PO Rivera helped to drag § 87(2)(b) to the van and instructed § 87(2)(b) to “get away” and to “shut up” at the scene. She also stated that PO Gonzalez used profanity, the nature of which she could not recall, ordered all the double-parked cars to move, and helped drag § 87(2)(b) to the van. He or another officer who looked like him but was not in the array threatened to arrest her at the precinct. She also picked out two young blonde white male fillers and stated that the officer who arrested § 87(2)(b) looked like them. Of the three fillers she stated were present, she believed two helped drag § 87(2)(b) to the van. She did not know how the third was involved.

§ 87(2)(b) added that four officers dragged § 87(2)(b) to the van, all holding him by the arms. She also stated that the officer who pushed her was a male officer who looked like PO Gonzalez but was not in the array. He pushed past her to open the car door and her body hit the car. § 87(2)(b) could not recall if an officer slammed a car door on § 87(2)(b). A crowd of approximately 17 people gathered during the incident. § 87(2)(b) does not have a phone number or address for § 87(2)(b).

### **Results of Investigation**

#### **Attempts to Contact Witnesses**

§ 87(2)(b) could not provide contact information for § 87(2)(b) and a Lexis Nexis search of her name, including alternate spellings, did not return any matches.

§ 87(2)(b) did not have contact information for § 87(2)(b) whose full name, § 87(2)(b) and address were obtained from PO Dozier’s memo book and the command log. Two letters were mailed to § 87(2)(b) at that address, but as of September 12, 2007, he has not contacted the CCRB. The matching phone number found on Lexis Nexis was out of service, and no other phone numbers or addresses were listed on Lexis Nexis for § 87(2)(b), § 87(2)(b), an employee at § 87(2)(b) the liquor store next to Jordan’s Barbershop, stated to the CCRB that § 87(2)(b) no longer works there.

#### **Jordan’s Barbershop**

On July 2, 2007, the CCRB conducted a canvass at Jordan’s Barbershop, but nobody there claimed to have been present during the incident and nobody would provide the name of the owner. They were given cards to supply to other employees, but as of the time this report was written, nobody from Jordan’s Barbershop has contacted the CCRB.

#### **Officer Identification**

The complainants identified Sgt. Nunez by name, and he stated that he was working with PO Rivera and PO Offenbacher on the incident date. PO Rivera’s memo book corroborates this, and PO Offenbacher’s memo book indicates that he was working with PO Rivera. The names of PO Gonzalez and PO Dozier were on the summonses, and the 44<sup>th</sup> Precinct roll call for tour 1 on September 24, 2006, indicates that PO Fermin was PO Dozier’s partner and that PO Mercado was PO Gonzalez’ partner.

#### **Subject Officer Statements**

SGT. OSVALDO NUNEZ of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old Hispanic male, provided a statement to the CCRB on May 8, 2007 (Encl. 12a-b).

Memobook (Encl. 11a-c)

Sgt. Nunez memobook that at 12:30 a.m. on September 24, 2006, he responded to a 10-50 (disorderly group) call at 1354 E.L. Grant Highway. There were triple-parked cars in the area and 100 to 150 persons drinking in front of a barbershop. At 12:35 a.m. three arrests were made for § 87(2)(b).

CCRB Statement Summary

Sgt. Nunez's worked from 5:15 p.m. on September 24, 2006, to 2:12 a.m. on September 25. His assignment was Impact Supervisor and he was working with PO Offenbacher and PO Rivera in a marked van. He was in uniform.

Sgt. Nunez's had driven by this location several times during his tour and noticed that there was some kind of celebration, possibly a grand opening. Although the gathering did not have a permit, he allowed the event to continue as a courtesy. § 87(2)(b)

People were still drinking publicly and double-parked cars were still lining the street when officers began dispersing the crowd at 12:30 a.m. Most people complied and left the area. Eventually, all the double-parked cars moved, with the exception of one. § 87(2)(b) the car's owner, who wore a cast on one of his arms and one of his legs, was not driving due to his condition. He was seated in the passenger's seat and his friend was seated in the driver's seat. Sgt. Nunez heard § 87(2)(b) cursing and believed § 87(2)(b) became hostile because PO Dozier had issued him a summons for double parking. Sgt. Nunez did not hear PO Dozier call § 87(2)(b) a "smartass." Upon further questioning, Sgt. Nunez stated that he could not hear the interaction between § 87(2)(b) and PO Dozier. Sgt. Nunez approached § 87(2)(b) car after PO James Gonzalez informed him that § 87(2)(b) was refusing to move his car and using obscenities, and that he had called PO Dozier a "fucking bitch." PO Gonzalez further stated that § 87(2)(b) was a known drug dealer and had sustained his injuries in a motorcycle accident. The crowd the officers had managed to disperse gathered again when they saw § 87(2)(b) screaming and cursing at the police. Sgt. Nunez approached § 87(2)(b) car and told him several times that if he did not move his car it would be towed and he would be placed under arrest. § 87(2)(b) replied "I got a fucking ticket now. I'm not moving" and told his friend, the driver, not to move. Sgt. Nunez never stated to § 87(2)(b) "You're fucking with the wrong cop" or "I don't give a fuck if you can walk or not." Because § 87(2)(b) behavior was drawing a crowd, Sgt. Nunez decided to place him under arrest for disorderly conduct. Sgt. Nunez was unable to handcuff § 87(2)(b) due to his cast, and it was apparent that § 87(2)(b) could not walk, so Sgt. Nunez dragged him to the police van by placing his forearms under § 87(2)(b) armpits and pulling him backward. No other officers helped Sgt. Nunez. As Sgt. Nunez was pulling § 87(2)(b) the driver of the car and § 87(2)(b) girlfriend screamed that § 87(2)(b) was hurt and in a cast. Sgt. Nunez did not recall whether the driver was disorderly at any time during the incident. Sgt. Nunez never saw an officer slam § 87(2)(b) car door against the driver. § 87(2)(b) did not scream in pain or give any indication that he was hurt while being dragged. When asked by the CCRB if § 87(2)(b) legs were dragging on the ground as he was pulled to the van, Sgt. Nunez stated that "they might have been." Sgt. Nunez then explained that casts often cause legs to bend at the knee, and that he believed § 87(2)(b) leg was bent and therefore slightly elevated above the ground because of the cast. Sgt. Nunez then stated that because he was looking behind him at the time to make sure not to trip, he could not recall whether § 87(2)(b) legs were dragging. Sgt. Nunez then pulled § 87(2)(b) backwards into the van and onto the seat. Another officer lifted § 87(2)(b) legs at that point to assist Sgt. Nunez, but Sgt. Nunez did not recall which officer. § 87(2)(b) girlfriend then approached Sgt. Nunez and asked for his badge number, and Sgt. Nunez stated it, as well as his name. Sgt. Nunez never pushed § 87(2)(b) girlfriend. Sgt. Nunez believed two other people were arrested as well, but he dealt primarily with § 87(2)(b). The officers brought § 87(2)(b) to the stationhouse and his car was taken there as well. Sgt. Nunez did not recall whether he rode to the precinct in the van with § 87(2)(b). Sgt. Nunez never stated to § 87(2)(b) "If I hear any bullshit complaint, I'll make your life miserable." Sgt. Nunez saw § 87(2)(b) girlfriend at the stationhouse, but he did not threaten to arrest her at any time. § 87(2)(b) car was searched at the stationhouse, but Sgt. Nunez did not recall which officers conducted the search.

PO TIFFANY DOZIER of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old white female with light brown hair and blue eyes, provided an official statement to the CCRB on May 9, 2007 (Encl. 14a-b).

#### Summonses (Encl. 14a-b)

§ 87(2)(b): On September 24, 2006, PO Dozier issued this summons to § 87(2)(b) for § 87(2)(b).

Parking Summons (number not fully visible on photocopy): On September 24, 2006, PO Dozier issued a summons for double parking to Florida license plate #§ 87(2)(b).

#### Memobook (Encl. 15a-c)

PO Dozier's memobook indicates that at 12:20 a.m. she participated in a quality of life check at 1354 E.L. Grant Highway. At 12:25 a.m. she issued a double-parking summons to a car with license plate #§ 87(2)(b) the driver of which was warned twice and "kept returning." She also issued § 87(2)(b) a summons for disorderly conduct, because he cursed and caused public alarm when PO Dozier issued the double-parking summons. She issued another § 87(2)(b) summons to § 87(2)(b) who failed to disperse after lawfully ordered to do so and also cursed and caused public alarm. At 12:45, PO Dozier arrived at the stationhouse.

#### CCRB Statement Summary

PO Tiffany Dozier worked from 8:00 p.m. on September 23, 2006, to 4:35 a.m. on September 24, 2006. She was in uniform and assigned to Impact Conditions in a marked van. She was not working with a specific partner.

PO Dozier and other officers whom PO Dozier did not recall were conducting a quality of life check shortly after midnight outside of a club at 1354 E.L. Grant Highway and clearing double-parked cars from the area. PO Dozier did not recall whether there was a crowd outside of the club at that time. § 87(2)(b) who PO Dozier identified based on the summonses she issued, came out of the establishment and stated to the officers that he would move his double-parked car, which he did. § 87(2)(b) was not in a wheelchair. PO Dozier did not notice if he was handicapped in any way. A few minutes later, § 87(2)(b) returned and double-parked again. Officers stated to § 87(2)(b) that cars were not allowed to double-park at that time, at which point he left again. He then returned shortly thereafter and double parked for the third time. Upon further questioning, PO Dozier stated that she could not recall whether § 87(2)(b) was the driver or the passenger of the car and that she did not recall whether there was another individual with § 87(2)(b). PO Dozier then began issuing a double-parking summons. While she was doing so, § 87(2)(b) and § 87(2)(b) both started yelling and calling the officers profane names that PO Dozier would not repeat because she does not use the language they used. PO Dozier did not respond. Officers warned § 87(2)(b) and § 87(2)(b) to stop, but they did not, and a large crowd began to gather. Upon further questioning, PO Dozier stated that § 87(2)(b) was part of this crowd. PO Dozier did not recall if § 87(2)(b) and § 87(2)(b) were associated. Sgt. Nunez approached the car around this time. People in the crowd also began calling the officers names. Officers then instructed the crowd to disperse and everyone left, except for § 87(2)(b) and § 87(2)(b). Upon further questioning, PO Dozier stated that § 87(2)(b) was standing outside of the car during his dispute with the officers, having gotten out when PO Dozier began writing the double-parking summons. PO Dozier then issued a summons for § 87(2)(b) to both § 87(2)(b) and § 87(2)(b). She did not recall if she was ordered to write these summonses or if she chose to write them herself. Upon further questioning, PO Dozier stated that she did not recall whether the summonses were issued at the scene of the incident, but that according to her memo book, they were. She did not recall if § 87(2)(b) was arrested. PO Dozier did not call § 87(2)(b) a "smartass." PO Dozier did not hear Sgt. Nunez state to § 87(2)(b) "I don't give a fuck if you can walk or not," or "You're fucking with the wrong cop." PO Dozier did not see Sgt. Nunez or any other officer take § 87(2)(b) out of his car or throw him into the police van. She did not recall seeing § 87(2)(b) girlfriend during the incident, nor did she recall seeing Sgt. Nunez push a woman away from § 87(2)(b) car. PO Dozier did not recall seeing an officer slam a car door on another individual in § 87(2)(b) car, nor did she recall if § 87(2)(b) car was searched. She did not recall if Sgt. Nunez threatened to arrest § 87(2)(b) girlfriend at the stationhouse, nor did she recall if Sgt. Nunez stated to § 87(2)(b) "If I hear any bullshit complaint, I will make your life miserable." Upon further questioning, PO Dozier stated that her recollection of this incident is vague.

### **Witness Officer Statements**

PO MARK OFFENBACHER of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old white male with light brown hair and green eyes, provided an official statement to the CCRB on May 18, 2007 (Encl. 17a-b).

#### Memobook (Encl. 16a-b)

PO Offenbacher has no entries in his memo book regarding this incident.

#### CCRB Statement Summary

PO Offenbacher worked from 8:00 p.m. on September 23, 2006, to 4:35 a.m. on September 24, 2006. He was assigned to Conditions in a marked RMP #2073 with PO Rivera and was in uniform.

PO Offenbacher had no recollection of the incident. A brief summary and a description of the individuals involved did not refresh his memory. He works in the area surrounding the incident frequently. A large crowd gathering in front of a barbershop late at night would not have been particularly exceptional or memorable.

PO JAMES GONZALEZ of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old Hispanic male with a mustache, provided an official statement to the CCRB on May 7, 2007 (Encl. 20a-b).

#### Summons (Encl. 19)

§ 87(2)(b): On September 24, 2006, PO Gonzalez issued this summons to § 87(2)(b) for § 87(2)(b) § 87(2)(b)

#### Memobook (Encl. 18a-c)

PO Gonzalez has no entries in his memobook regarding this incident.

#### CCRB Statement Summary

On September 24, 2006, PO Gonzalez worked from 4:00 p.m. to 12:00 a.m. and was assigned to Conditions with PO Mercado in a marked patrol car. He was in uniform.

At approximately 12:45 a.m., PO Gonzalez and a number of other officers began dispersing a large group in front of 1354 E.L. Grant Highway in the Bronx. PO Gonzalez did not have a clear recollection of this incident. Many people were drinking and acting disorderly, and there were triple-parked cars along the block. PO Gonzalez instructed people to move cars and wrote summonses. PO Gonzalez did not interact with § 87(2)(b) when he was doing this, but saw that § 87(2)(b) was being uncooperative with other officers. PO Gonzalez was not able to elaborate on the way in which § 87(2)(b) was uncooperative. § 87(2)(b) was removed from his car by officers and carried to a police vehicle. PO Gonzalez did not believe he was involved in removing or carrying § 87(2)(b) and he did not recall which officers were. § 87(2)(b) requested that the officers take his wheelchair from his car and PO Gonzalez and other officers retrieved the wheelchair from § 87(2)(b) trunk. A group of people who PO Gonzalez believed were associated with § 87(2)(b) gathered in the area. They were acting boisterous and combative and attempting to prevent officers from arresting § 87(2)(b) by pulling on § 87(2)(b). PO Gonzalez did not have any recollection of the driver of § 87(2)(b) car, § 87(2)(b). PO Gonzalez wrote § 87(2)(b) a summons for § 87(2)(b) § 87(2)(b). He was not ordered to issue the summons -- he made the decision himself. § 87(2)(b) was also charged with § 87(2)(b), but PO Gonzalez did not recall why.

PO ANIBAL MERCADO of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old Hispanic male, provided an official statement to the CCRB on May 17, 2007 (Encl. 22a-b).

#### Memobook (Encl. 21a-c)

PO Mercado has no entries in his memobook regarding this incident.

#### CCRB Statement Summary



PO Mercado worked from 3:00 p.m. on September 23, 2006, to 5:05 a.m. on September 24, 2006, and was assigned to sector patrol in marked RMP #2595 with PO Gonzalez.

At approximately 12:45 a.m., PO Mercado, PO Gonzalez and other officers whom PO Mercado cannot recall were clearing a large crowd that had gathered at 1354 E. L. Grant Highway, a barbershop, § 87(2)(b). PO Gonzalez had a moustache at the time. Officers were telling people to move their cars off the block, and everyone was cooperative, with the exception of two men, one of whom was handicapped. Their car was double parked, and the man who was not handicapped was standing behind it. PO Mercado could not recall whether the handicapped man was inside or outside of the car. Officers whom PO Mercado could not recall told the men to leave. One of the men stated that they would not leave, but PO Mercado did not recall exactly what words he used. The handicapped individual was cursing loudly at a female officer, and a crowd gathered around. The two men were screaming and agitating the crowd. One of them insisted on getting a haircut at the barbershop. PO Mercado was approximately five feet from the men when they were interacting with the officers, but he was focused on the growing crowd of approximately fifty people. PO Mercado and PO Gonzalez arrested the individual who was not handicapped by placing him in handcuffs and escorting him to their car. He did not resist but seemed to be concerned about the handicapped individual, who he said had just been in a motorcycle accident. Other officers arrested the handicapped individual. PO Mercado did not recall seeing officers apprehend the handicapped individual and believed he may already have been on the way to the stationhouse at that time. PO Mercado did not recall seeing an officer take the handicapped individual out of the car or throw him in the van, nor did he recall if anyone in the crowd attempted to interfere with either of the arrests. PO Mercado did not have an independent recollection of Sgt. Nunez's presence at the scene and did not hear Sgt. Nunez state to the handicapped individual, "I don't give a fuck if you can walk or not," or "You're fucking with the wrong cop," nor did he see Sgt. Nunez push a woman away from the car. PO Mercado did not recall if the two men involved in the incident were with a woman. He did not hear an officer call either of the individuals a "smartass" or state, "I don't give a fuck if you're handicapped." No officer slammed a car door onto the individual PO Mercado arrested with PO Gonzalez. The individual was standing behind the car – it would not have been possible for the door to slam on him. The car was not searched before it was taken to the stationhouse.

PO FABRICIO FERMIN of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old Hispanic male, provided an official statement to the CCRB on June 8, 2007 (Encl. 24a-b).

#### Memobook (Encl. 23)

PO Fermin has no entries in his memobook regarding this incident.

#### CCRB Statement Summary

PO Fermin worked from 10:00 p.m. on September 23, 2006, to 4:35 a.m. on September 24, 2006 assigned to Conditions in a marked RMP with an unknown number. He was in uniform and his partner was PO Dozier.

At approximately 12:45 on September 24, 2006, PO Fermin arrived in front of 1354 E.L. Grant Highway in the Bronx to disperse a crowd of approximately fifty people gathered outside of a barbershop. There was a party inside of the barbershop and people were drinking on the sidewalk outside. PO Fermin did not recall whether he was called to the location or if he observed the condition there himself. There may have been approximately ten officers there clearing the crowd, but PO Fermin could not identify any of them other than Sgt. Nunez and PO Dozier. He did not recall what Sgt. Nunez or PO Dozier were doing at the time. PO Fermin was instructing people to "keep it moving," and everyone he ordered to do so complied. He did not recall if any civilians in the area refused to leave. He did not enter the barbershop. PO Fermin did not hear PO Dozier call anyone a "smartass"; he did not hear Sgt. Nunez state, "You're fucking with the wrong cop," or "I don't give a fuck if you can walk or not"; he did not see Sgt. Nunez or any other officer drag a civilian out of a car or throw a civilian into a police van, nor did he see Sgt. Nunez push a female away from a car; he did not see an officer slam a car door on a civilian, and he did not see officers search a vehicle. PO Fermin did not recall seeing a handicapped male in the vicinity at the time, but he did see a handicapped male, § 87(2)(b) at the stationhouse after the incident. He did not recall whether § 87(2)(b) was in a wheelchair, but heard § 87(2)(b) state that he could not walk. PO Fermin did not interact

with § 87(2)(b) at any time. He did not recall hearing Sgt. Nunez state to § 87(2)(b) “If I hear any bullshit complaint, I’ll make your life miserable,” nor did he recall hearing Sgt. Nunez threaten to arrest a female in the stationhouse.

PO JOSEPH RIVERA of the 44<sup>th</sup> Precinct, a § 87(2)(b)-old Hispanic male, provided an official statement to the CCRB on June 22, 2007 (Encl. 26a-b).

#### Memobook (Encl. 25a-b)

PO Rivera has no entries in his memobook regarding this incident.

#### CCRB Statement Summary

PO Joseph Rivera of the 44<sup>th</sup> Precinct worked from 10:00 p.m. on September 24, 2006, to 4:35 a.m. on September 25, 2006. PO Rivera was in uniform and worked with PO Offenbacher until 11:25 p.m., when he joined Sgt. Nunez in a marked RMP.

PO Rivera had no recollection of the incident and a summary of provided by the CCRB, including the allegations, did not refresh his memory.

### **Police Documents**

#### SPRINT Report

There is no SPRINT report on file for this incident and no resource log available for the incident date.

#### Roll Call (Encl. 27a-b)

The 44<sup>th</sup> Precinct roll call for tour 1 on September 24, 2006, indicates that PO Dozier and PO Fermin worked together from 8:00 p.m. to 4:35 a.m., that PO Offenbacher and PO Rivera worked together during the same period. It also indicates that PO Mercado and PO Gonzalez worked together from 4:00 p.m. to 11:35 p.m. Sgt. Nunez is not listed.

#### Command Log (28a-b)

The 44<sup>th</sup> Precinct command log from September 24, 2006, indicates that PO Dozier arrested § 87(2)(b) at the incident location for § 87(2)(b) and that he was released with summons #4 § 87(2)(b). It also indicates that PO Gonzalez arrested § 87(2)(b) at the incident location for § 87(2)(b). These entries were made at 12:40 a.m. and Sgt. Nunez is listed as the supervisor for both arrests.

### **Summons Dispositions**

Parking Summons (Encl. 14a): A search of the Finance Department’s website revealed that Florida license plate #§ 87(2)(b) has no unpaid tickets are on record.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Criminal Conviction History**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Subject Officer CCRB History**

#### Sgt. Nunez (Encl. 2a-c)

In his 11-year tenure with the NYPD, Sgt. Nunez has been the subject of one substantiated allegation: for the use of force in case #200100569. The NYPD brought this case to trial in September of 2003 and Sgt. Nunez was found not guilty.

#### PO Tiffany Dozier (Encl. 2d)

No allegations against PO Dozier have been substantiated in her two-year tenure with the NYPD.

### **Conclusions and Recommendations**

#### **Subject Officer Identification**

PO Dozier's name is on the parking summons, and § 87(2)(b) stated that the female officer who issued that summons called him a "smartass." Although she is not blond, she is white and has light hair and light eyes. There were no other female officers at the scene. § 87(2)(g)

#### **Sgt. Nunez**

The complainants identified Sgt. Nunez by name, and Sgt. Nunez stated in his CCRB interview that he provided his name and shield number to § 87(2)(b) girlfriend and that he confronted and threatened to arrest § 87(2)(b) in his car after § 87(2)(b) had a verbal dispute with PO Dozier. The complainants alleged that it was the officer who approached the car after § 87(2)(b) dispute with PO Dozier and who eventually provided his name and shield number to § 87(2)(b) who also used profanity, threatened to arrest § 87(2)(b) and pushed § 87(2)(b) into the car. § 87(2)(g)

#### **Undisputed Facts**

§ 87(2)(b) and § 87(2)(b) were double parked in a crowded area and did not comply when instructed by officers to move. PO Dozier issued a parking summons, and Sgt. Nunez approached the car and confronted § 87(2)(b). Sgt. Nunez also removed § 87(2)(b) from the car and brought him to the police van. § 87(2)(b) and members of the crowd protested the officers' treatment of § 87(2)(b).

#### **Disputed Facts**

§ 87(2)(g)

#### **Credibility**

§ 87(2)(g)

#### **Sgt. Nunez**

Sgt. Nunez § 87(2)(g)

§ 87(2)(b) claimed that he pulled § 87(2)(b) to the van by his arms without help but did not know whether § 87(2)(b) legs were dragging because he was looking

backward as he was pulling and because § 87(2)(b) cast may have bent his leg in such a way that it did not touch the ground. § 87(2)(g)

#### PO Dozier

PO Dozier claimed that § 87(2)(b) could walk, that he came out of the barbershop, and that he was standing outside of his car during the incident. None of these assertions are supported by any other account. When pressed by the CCRB, PO Dozier admitted that her memory of the incident was vague. § 87(2)(g)

#### PO Offenbacher

§ 87(2)(g)

#### PO Gonzalez

§ 87(2)(g)

#### PO Mercado

§ 87(2)(g)

#### PO Rivera and PO Fermin

§ 87(2)(g)

### **Analysis**

#### Allegations Not Pled

§ 87(2)(b) said that PO Dozier stated to § 87(2)(b) “I don’t give a fuck if you’re handicapped,” but § 87(2)(b) did not allege this, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

Allegation A: PO Tiffany Dozier spoke rudely to § 87(2)(b)  
[REDACTED] is the only complainant who stated that PO Dozier called him a “smartass,” and all of the officers who recalled the incident deny hearing this. § 87(2)(g)  
[REDACTED]

Allegation B: Sgt. Osvaldo Nunez used physical force against § 87(2)(b)  
§ 87(2)(g)  
[REDACTED]

Allegation C: Sgt. Osvaldo Nunez spoke obscenely to § 87(2)(b)  
Both § 87(2)(b) and § 87(2)(b) claimed that Sgt. Nunez stated to § 87(2)(b) “You’re fucking with the wrong cop,” and § 87(2)(b)’s variation on this quote was, “You want to fuck with me?” § 87(2)(b) also alleged that Sgt. Nunez stated to him, “I don’t give a fuck if you can walk or not.” § 87(2)(g)  
[REDACTED]

Allegation D: Sgt. Osvaldo Nunez threatened to arrest § 87(2)(b)  
§ 87(2)(b) claimed that in the precinct Sgt. Nunez stated to her, “You’re looking to get arrested,” and although § 87(2)(b) and § 87(2)(b) stated that Sgt. Nunez threatened to arrest her on the scene, they did not claim to have witnessed Sgt. Nunez make a similar threat at the precinct. Sgt. Nunez denied that he threatened to arrest § 87(2)(b) § 87(2)(g)  
[REDACTED]

Investigator: Date:  
Supervisor: Date:  
Reviewed by: Date:

Reviewed by:

Date: